THE HON'BLE Mr. JUSTICE V.ESWARAIAH

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W.P. Nos. 22820, 22822, 22826, 22830, 22880, 22887, 22890, 22898, 22904, 22906, 22907, 22926, 22935, 22956, 23013, 23014, 23015, 23017, 23022, 23037, 23053, 23054, 23100, 23109, 23121, 23149, 23151, 23157, 23173, 23182, 23196, 23197, 23201, 23202, 23203, 23276, 23289, 23301, 23303, 23306, 23308, 23320, 23331, 23340, 23341, 23387, 23388, 23416, 23427, 23440, 23480,23488, 23494, 23495,23500, 23505, 23520, 23531, 23533, 23549, 23586, 23592, 23593, 23599, 23600, 23642, 23669, 23670 and 23671 of 2005

DATED:03-11-2005

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Between:

Ch. Radhamma ……Petitioner

AND

The Government of Andhra Pradesh, Agriculture and Co-opeation (Coop.V) Department, Secretariat, Hyderabad, represented by its

Principal Secretary to Government and others.

….Respondents

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W.P.Nos.22820,22822,22826,22830,22880,22887,22890, 22898, 22904, 22906, 22907, 22926, 22935, 22956, 23013, 23014, 23015, 23017, 23022, 23037, 23053, 23054, 23100, 23109, 23121, 23149, 23151, 23157, 23173, 23182, 23196, 23197, 23201, 23202, 23203, 23276, 23289, 23301, 23303, 23306, 23308, 23320, 23331, 23340, 23341, 23387, 23388, 23416, 23427, 23440, 23480,23488, 23494, 23495,23500, 23505, 23520, 23531, 23533, 23549, 23586, 23592, 23593, 23599, 23600, 23642, 23669, 23670 and 23671 of 2005

COMMON ORDER:

All these writ petitions are filed questioning the different orders of the Government postponing the elections to the Primary Agriculture Co-operative Society (for short "the PACS") on the ground that hypersensitive situation was prevailing for conducting free and fair elections.

At the stage of admission, all these writ petitions were adjourned so as to enable the learned Government Pleader appearing for the Co-operation to get instructions. On instructions, the learned Government Pleader submitted that the Government considered several representations that have been made to conduct the elections to the PACS, which were postponed. He further submitted that the Government, after careful examination of the present situation, decided to cancel all the earlier orders

postponing the elections to the PACS and accordingly, issued the order in G.O.Rt. No. 1166, Agriculture & Cooperation (Coop.V(1) Department, dated 03-11-2005 cancelling the earlier orders of postponement of elections and as per the said order, the Commissioner for Cooperation and Registrar of Cooperative Societies, Andhra Pradesh, Hyderabad is requested to take further action.

As per Rule 22-C of the Andhra Pradesh Co-Operative Societies Rules, 1964 (for short "the Rules") the Government or the Election authority is empowered to direct the postponement of elections, if there is a break down of law and order affecting the peaceful and lawful conduct of elections and if there is any natural calamity that prevents the conduct of elections particularly, voters from participation in the election and where there is reasonable apprehension that the voters will not be allowed to vote frankly and freely.

The learned Counsel appearing for the petitioners in various writ petitions submits that though none of the circumstances mentioned under Rule 22-C (i) (ii) (iii) of the Rules existed, the Government entertained the untenable representations and postponed the elections unilaterally.

In view of the order in G.O.Rt.No:1166, dated 3.5.2005, the above contention needs no consideration.

Therefore, the question that survives for consideration is that as to whether the process of recommencement of the elections from the stage, at which the elections were obstructed or interrupted under Rule 22-C (1) (b), can be set into motion as per G.O.Rt.No:1166, dated 3.11.2005 with immediate effect.

Under Rule 22-C (1) (b), wherever the elections are postponed on any specific ground and on such postponement, the election process shall be recommenced by issue of an order by the authority, which has postponed the elections. The process will recommence from the stage at which it was obstructed or interrupted. The Government issued orders cancelling the orders of postponement and directed the Commissioner for Co-operation to take further action in the matter.

The grievance of some of the writ petitioners is that as the elections to certain PACS, which have not yet been completed, have not been recommenced as per the above G.O.Rt.No:1166, there is every likelihood of depriving their right to contest in the cooperative elections of Districts Co-operative Central Banks.

At this stage, it is brought to the notice of this Court by the learned counsel for the petitioners that the last date for preparing and furnishing the list of members eligible to franchise their votes, before the Election Officer is 12-11-2005 and the notification to conduct elections has to be issued by the Election Officer on 13-11-2005 and the last date for receipt of nominations, scrutiny of nominations, list of valid nominations and publication respectively is 14-11-2005 and as well as the last date for withdrawal of the nominations and publication of the final valid nominations list is 15-11-2005 and the date of poll for the Managing Committee of the Co-operative Central Banks is fixed as 17-11-2005.

In view of the fact that the common prayer in all the writ petitions, is with regard to the postponement of elections as per the orders of the Government as illegal and also in view of the fact that the said orders postponing the elections have been revoked as per G.O.Rt.No:1166, dated 3.11.2005, I am of the opinion that no further orders are necessary in these writ petitions.

However, in view of the fact that the Government has issued G.O.Rt.No:1166, dated 3.11.2005 cancelling the earlier orders postponing the elections and directing the Commissioner of Co operation to take further action for recommencement of the elections and in case of failure to implement the same, it is always open for the respective parties to approach the appropriate forum, if they are so advised.

Subject to the above observation, all the writ petitions are closed.

03rd November, 2005

Note: Issue C.C. by Monday

(By Order)

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DATED:03-11-2005

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